

Appl. No. 10/710,718
Amdt. dated 12/15/2005
Reply to Office action of 11/22/2005

REMARKS / ARGUMENTS

The Applicant thanks the Office for the careful consideration given to his application in the communication mailed 11/22/2005. In that communication, claims 8 – 10 were objected to for informalities. Claims 3 and 8 were rejected for indefiniteness under 35 USC 112. Claims 1, 3, 6 – 10, and 16 were rejected as being anticipated by Henzi (3,260,489). Claims 1 – 3, 5 – 10, 14, and 15 were rejected as being anticipated by Tritt (2,295,370). Claims 4, 11, and 12 were rejected under 35 USC 103(a) as being unpatentable over Tritt in view of *In re Boesch*. Claim 13 was rejected under 35 USC 103(a) as being unpatentable over Tritt in view of *In re Leshin*.

Applicant amends claims 8 – 10 in this amendment to make the changes suggested by the Office to correct objectionable material. Regarding the 35 USC 112 problems, Applicant deleted the word "standard" in claim 3, and resolved the antecedent basis problem in claim 8.

Regarding the rejections under 35 USC 102, the Applicant will focus his response on claim 1, from which claims 2 – 16 depend. If claim 1 is allowable, then claims dependent on claim 1 should also be allowable.

The general rule to establish anticipation under 102 is that every element of the claim must be present in the cited reference. In this case, the Hentzi and Tritt references do not refer in any way to a "forearm support brace for a rifle." Hentzi refers only to detachable brackets that are removably secured to a wall support for upholding a vertical object. Hentzi col. 1, lines 9 – 12. Tritt refers only to a clothes hanger. Tritt col. 1, line 1. Applicant states that his element of "a forearm support brace for a rifle" in the preamble distinguishes it from the prior art, and therefore makes claim 1 patentable. MPEP 2111.02, II.

The purposes of the structure recited in the present inventions are different from those expressed in Hentzi and Tritt. The CAFC has found this difference sufficient to avoid anticipation. *Union Oil Co. of Cal. v. Atlantic Richfield Co.*, 54 USPQ2d 1277 (Fed. Cir. 2000), *cert denied*, 531 U.S. 1183 (2001).

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For these two distinct reasons, Applicant asserts that claim 1 is not anticipated by Hentzi or Tritt. Each claim depending from claim 1 should also not be anticipated.

Regarding the rejections under 35 USC 103, Applicant asserts that the Tritt reference constitutes non-analogous prior art, and therefore should not be considered. Tritt covers a clothes hanger, which is not in the field of the Applicant's endeavor. The Applicant's invention is in the field of firearms. MPEP 2141.01(a), I. The present invention is also classified differently than the cited references. The present invention is in Class 42, Firearms. Tritt is in Class 248, Supports. Applicant suggests that this is further evidence of non-analogy. MPEP 2141.01(a), II. The present case is similar to the facts of non-analogy in the mechanical arts of *In re Oetiker*, 24 USPQ2d 1443 (Fed. Cir. 1992). In that case, the applicant had an invention for a hose clamp. The CAFC found that a reference to a hook and eye fastener for a garment was non-analogous. MPEP 2141.01(a), IV. For the foregoing reasons, Applicant suggests that claims 4 and 11 – 13 are not obvious under 103, and should therefore be patentable.

Claims 17 – 20 are new, and have the added element of a rifle butt. Neither Hentzi nor Tritt teach or suggest a rifle butt, so claims 17 – 20 should be allowable.

Applicant suggests that all claims are allowable, and respectfully requests that a Notice of Allowance be issued in this case.

Respectfully submitted,



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